

FILED

JUL 31 2008

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES MICHAEL BURGE,

Defendant.

CR No.: 3-08-70181 MAG

**STIPULATION AND ~~[PROPOSED]~~
ORDER EXCLUDING TIME**

On July 10, 2008, the parties in this case appeared before the Court for a preliminary hearing. The parties requested and the Court agreed to continue the preliminary hearing to August 12, 2008, so that the parties could explore pre-indictment resolution of this case. The parties further stipulated that pursuant to Federal Rule of Criminal Procedure (FRCP) 5.1(d), the time limits set forth in FRCP 5.1(c) be excluded from July 10, 2008, to and including August 12, 2008. The parties agree that – taking into account the public interest in prompt disposition of criminal cases good cause exists for this extension. Defendant also agrees to exclude for this period of time any time limits applicable under Title 18, United States Code, Section 3161. This continuance is the

STIP. & ~~[PROPOSED]~~ ORDER EXCLUDING TIME
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reasonable time necessary for continuity of defense counsel and effective preparation of defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). The parties also agree that the ends of justice served by granting such a continuance outweigh the best interests of the public and the defendant in a speedy trial. See 18 U.S.C. § 3161(h)(8)(A). SO STIPULATED:

JOSEPH P. RUSSONIELLO
United States Attorney

DATED: July 30, 2008

/s/ Owen Martikan
OWEN P. MARTIKAN
Assistant United States Attorney

DATED: July 30, 2008

/s/
PETER GOODMAN
Attorney for James Michael Burge

[PROPOSED] ORDER

For the reasons stated above, the Court finds that an exclusion of time from July, 10, 2008, to and including August 12, 2008, is warranted and that the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. See 18 U.S.C. §3161 (h)(8)(A); FRCP 5.1(d). The failure to grant the requested continuance would deny Mr. Burge continuity of counsel and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. See 18 U.S.C. §3161(h)(8)(B)(iv).

SO ORDERED.

DATED: 7-31-08


HON. MARIA-ELENA JAMES
United States Magistrate Judge